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SENATE BILL 434

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Clinton D. Harden

AN ACT

RELATING TO IRRIGATION DISTRICTS; ALLOWING BOARDS OF DIRECTORS
TO USE MAIL-IN BALLOTS FOR CERTAIN ELECTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 73-9-6 NMSA 1978 (being Laws 1919,
Chapter 41, Section 6) is amended to read:

"73-9-6. ELECTION RESULTS--EFFECT--HOLDOVERS--CHANGE OF
DIVISIONS, PRECINCTS AND POLLING PLACES.--The [~~said~~] board of
county commissioners shall meet on the second Monday [~~next~~]
after such an election and canvass the votes cast [~~thereat;~~
~~and~~]. If it appears upon [~~such~~] the canvass that at least two-
thirds of the qualified electors voting at [~~said~~] the election
[~~have~~] voted "Irrigation District--Yes", the [~~said~~] board
shall, by order duly entered upon the records, declare [~~such~~]
the territory duly organized as an irrigation district under

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1 the name and style [~~theretofore~~] designated [~~and~~]. It shall
2 declare the persons receiving respectively the highest number
3 of votes for director to be duly elected to [~~such~~] that office.
4 [~~Said~~] The board shall cause a copy of [~~such~~] the order,
5 including a plat of [~~said~~] the district, duly certified by the
6 clerk of the board of county commissioners, to be immediately
7 filed for record in the office of the county clerk of each
8 county in which any portion of [~~such~~] the lands are situated
9 [~~and~~]. No board of county commissioners of any county
10 [~~including~~] that includes any portion of [~~such~~] the district
11 shall, after the date of organization of [~~such~~] the district,
12 allow another district to be formed [~~including~~] that includes
13 any of the lands of [~~such~~] the district without the consent of
14 the board of directors [~~thereof; and from and~~] of it. After
15 the date of [~~such~~] the filing, the organization of [~~such~~] the
16 district shall be complete, and [~~the~~] its officers [~~thereof~~]
17 shall immediately [~~enter upon~~] assume the duties of their
18 respective offices upon qualifying in accordance with law and
19 shall hold [~~such~~] those offices respectively until their
20 successors are elected and qualified. The boundaries of [~~said~~]
21 the divisions, [~~and the~~] voting precincts and polling places in
22 any [~~such~~] district may, after [~~such~~] the first election, be
23 changed by order of the board of directors of the district;
24 provided that, unless the board decides that an election shall
25 be by mail-in ballot, the polling places shall be designated in

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1 the notice published for every election in the district."

2 Section 2. Section 73-9-10 NMSA 1978 (being Laws 1919,
3 Chapter 41, Section 8) is amended to read:

4 "73-9-10. LOCATION OF OFFICE--SECRETARY--ELECTION
5 PROCEDURES--NOTICE OF ELECTIONS--BOARD.--

6 A. The office of the board of directors shall be
7 located in the county where the organization was effected.

8 B. For any election, subsequent to the organization
9 of the district, in which a director is elected, for any bond
10 election or for any refunding bond election, the board may
11 select an election procedure with in-person voting or with all
12 mail-in ballots. In an election for which the board has
13 selected in-person voting, the procedures of Subsection C of
14 this section shall be followed. In an election for which the
15 board has selected mail-in ballots, the procedures of Section
16 73-9-10.1 NMSA 1978 shall be followed.

17 C. In an election for which the board has selected
18 in-person voting, the following procedures shall be followed:

19 (1) fifteen days before any election held
20 under ~~[this act, subsequent to the organization of the~~
21 ~~district]~~ Chapter 73, Article 9 NMSA 1978, the secretary, who
22 shall be appointed by the board of directors, shall cause
23 notice, specifying the polling places of each precinct, to be
24 posted in three public places in each election precinct, of the
25 time and place of holding the election and shall also post a

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1 general notice of the same in the office of ~~[said]~~ the board,
2 which shall be established and kept at ~~[some]~~ a fixed place to
3 be determined by ~~[said]~~ the board in ~~[said]~~ the county;

4 (2) prior to the time for posting the notices,
5 ~~[said]~~ the board ~~[must]~~ of directors shall appoint from ~~[each~~
6 ~~precinct, from the electors thereof]~~ the electors of each
7 precinct three judges, one of whom shall act as clerk, who
8 shall constitute a board of election for ~~[such]~~ that precinct.
9 If the board fails to appoint a board of election or the
10 members appointed do not attend the opening of the polls on the
11 morning of election, the electors of the precinct present at
12 the hour may appoint the board or supply the place of an absent
13 member ~~[thereof]~~ of it;

14 (3) the board of directors ~~[must]~~ shall, in
15 its order appointing the board of election, designate the hour
16 and the place in the precinct where the election ~~[must]~~ shall
17 be held;

18 (4) one of the judges shall be chair of the
19 board of election and may:

20 (a) administer all oaths required in the
21 progress of any election; and

22 (b) appoint judges and clerks, if during
23 the progress of the election any judge or clerk ceases to act;

24 (5) any member of the board of election, or
25 any clerk of the board, may administer and certify the oaths

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1 required to be administered during the progress of an election;

2 (6) before opening the polls, each member of
3 the board of election shall take and subscribe an oath to
4 faithfully perform the duties imposed upon the member by law.

5 An elector of the precinct may administer and certify the oath;

6 (7) the polls shall be opened at 8:00 a.m. on
7 election day and be kept open until 6:00 p.m. on the same day;
8 and

9 (8) the clerk of the board of election shall
10 immediately deliver the returns duly certified to the board of
11 directors of the district."

12 Section 3. A new Section 73-9-10.1 NMSA 1978 is enacted
13 to read:

14 "73-9-10.1. [NEW MATERIAL] MAIL-IN BALLOTS--PROCEDURE.--

15 If the board of directors selects all mail-in ballots for a
16 director election, a bond election or a refunding bond
17 election, the election shall be conducted pursuant to the
18 following procedures:

19 A. the board of directors shall appoint one person
20 from each of the three precincts as a board of election for the
21 election;

22 B. the board of election shall mail each qualified
23 elector of the district a ballot along with a statement that
24 there will be no polling place for the election;

25 C. the ballot shall be mailed to each qualified

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1 elector no earlier than the thirty-fifth day prior to the
2 election, and the mailing shall be completed by the fifth day
3 before the election;

4 D. the board of election shall include in the
5 mailing a printed notice to the electors informing them that
6 the ballots shall be returned by mail;

7 E. the board of election shall prepare a checklist
8 of qualified electors in the district. Immediately upon
9 receipt of a ballot, the checklist shall be marked indicating
10 that a qualified elector has returned the ballot;

11 F. the board of election shall mark on each mailing
12 envelope the date and time of receipt and safely keep the
13 envelope unopened in a locked ballot box until it is opened;
14 and

15 G. the board of election board shall accept mailing
16 envelopes until 7:00 p.m. on election day. Any mailing
17 envelope received after that time shall not be placed in the
18 ballot box but shall be separately preserved until the time for
19 election contests has expired. In the absence of a restraining
20 order after expiration of the time for election contests, the
21 board of election shall destroy all late official mailing
22 envelopes without opening or permitting the contents to be
23 examined, cast, counted or canvassed."

24 Section 4. Section 73-9-12 NMSA 1978 (being Laws 1919,
25 Chapter 41, Section 10) is amended to read:

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1 "73-9-12. DETERMINING AND DECLARING ELECTION RESULTS--
2 PLURALITY ELECTS.--

3 A. No list, tally paper or certificate returned
4 from any election shall be set aside or rejected for want of
5 form if it can be satisfactorily understood.

6 B. The board of directors [~~must~~] shall meet at its
7 usual place of meeting on the first Monday after election and
8 canvass the returns. At the meeting, if the election was by
9 mail-in ballot, the board of election shall deliver the
10 unopened ballot box to the board of directors, and the board of
11 directors shall open the box and count the ballots.

12 C. If the election was by in-person voting and if
13 at the time of meeting the returns from each precinct in the
14 district in which the polls were open have been received, the
15 board of directors [~~must then and there~~] shall proceed to
16 canvass the returns [~~but~~]. If all the returns have not been
17 received, the canvass [~~must~~] shall be postponed from day to day
18 until the returns have been received or until six postponements
19 have been had.

20 D. The canvass [~~must~~] shall be made in public and
21 by opening the returns and counting the votes cast for each
22 person voted for, or as to each question voted upon, and
23 declaring the results [~~thereof~~].

24 E. The board shall declare elected the person
25 receiving the highest number of votes so returned for each

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1 office and also declare the result as to any question
2 submitted."

3 Section 5. REPEAL.--Section 73-9-11 NMSA 1978 (being Laws
4 1919, Chapter 41, Section 9) is repealed.

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